

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:10cv204**

RDLG, LLC,

Plaintiff,

v.

**RPM GROUP, LLC; RPM GROUP
BROKERAGE, LLC; FRED M.
LEONARD, III; JESSICA LEWIS
LEONARD; JASON BENTON;
NICK JAMES; and DEXTER
HUBBARD,**

Defendants.

ORDER

Defendant Dexter Hubbard filed a Motion for Summary Judgment on May 1, 2012. On June 12, 2012, Defendant Hubbard filed a Suggestion of Bankruptcy Upon the Record [# 79] indicating that he had filed for bankruptcy protection with the United States Bankruptcy Court for the Western District of North Carolina, Case Number 12-20098. Accordingly, the Court directed the parties to Show Cause in writing by August 17, 2012, whether this case is subject to an automatic stay pursuant to 11 U.S.C. § 362. In addition, the Court directed the parties to show cause whether, assuming that the claims against Defendant Hubbard are subject to such a stay, the Court may proceed with the trial as to the remaining Defendants on October 15, 2012.

Both parties agree that the claims as to Defendant Hubbard are subject to an

automatic stay. In addition, both parties agree that this stay does not impact the October 15, 2012, trial date as to the remaining Defendants. Accordingly, the Court **STAYS** the claims as to Defendant Dexter Hubbard. Either party may move to lift the stay upon the resolution of the bankruptcy proceedings or the lifting of the stay by the bankruptcy court. Prior to filing such a motion, however, counsel for Plaintiff and Defendant Hubbard shall confer as to whether there is a possibility of settlement. The trial will go forward as scheduled as to the remaining Defendants.

In addition, the Court **DENIES without prejudice** Defendant Hubbard's Motion for Summary Judgment [# 72]. Once the stay is lifted as to the claims asserted against Defendant Hubbard, Defendant Hubbard may file a motion to renew his previously filed Motion for Summary Judgment. The Court will then address the merits of Defendant Hubbard's motion. Defendant Hubbard need not submit a brief and the Court will issue a ruling based on the previously filed briefs and materials.

Signed: August 22, 2012

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Dennis L. Howell
United States Magistrate Judge

